(42) Rs. 8,253—2—0 under "7—Excise—Refunds"

Mr. B. V. K. Menon *(Offg. Commissioner of Excise):* I beg to move for an additional allotment of Rs. 8,253—2 0, under "7—Excise refunds." This is to refund the amount of duty already collected on salt jettisoned.

Demand put and carried

LEGISLATIVE BUSINESS—GOVERNMENT BILL

The Cochin Verumpattamdars' Bill

Mr. M. Raman Menon *(Offg. Diwan Peishkar):* I beg to move that the Cochin Verumpattamdars Bill be read in Council.

Mr. N. S. Radhakrishna Sarma *(Legal Remembrancer):* I second it.

Mr. M. Raman Menon *(Offg. Diwan Peishkar):* In moving this I have to submit that what has prompted the Government to introduce this legislation is made clear in the objects and reasons of the Bill. It reads thus:

"The question of giving fixity of tenure to Verumpattam tenant has been engaging the attention of the Government for some time. Government are satisfied that the conferment of fixity of tenure on such tenants will lead to the improvements of the lands and thereby increase the economic prosperity of the State. A sense of security in the tenant will induce him to greater efforts to improve the land. At the same time Government feel that non-payment of rent must entail a forfeiture of the rights to fixity. The rent now in force is the result of contract between the parties and it is considered that this rent may be deemed to be fair rent for all time. An increase in the productive capacity of the land due to the labour of the tenant should not be a basis for the enhancement of the rent by the landlord as the idea underlying the grant of fixity is to remove every clog on the unfettered improvement of land."

Of course, in view of this statement, I don't think that a further elucidation of the necessity for the bill is necessary. Any way, under the existing law, a tenant can be ejected out of his holding and the rent enhanced at any time and for any reason by the landlord.

Mr. A. V. Moothedan *(Chalakkudi):* Without any reason also.

Mr. M. Raman Menon *(Offg. Diwan Peishkar):* At any time and without any reason. Of course, this state of things takes away the incentive from the tenant to improve the land because he was not sure if he improves the land and enhances the productive capacity of the land, when he would be evicted or when the rent would be enhanced. The only remedy for this evil is to introduce fixity of tenure. Unless he is guaranteed that he would be allowed to enjoy the fruits of his own labour, there may not be any inducement for him to improve the land. And naturally, the economic prosperity of the State depends in a large measure on the improvement of the land. That is exactly the reason why no fixity of tenure has been sought to be conferred upon the tenant. Now, in conferring the fixity of tenure, the most essential thing is the fixing of the fair rent. Without a fair rent being fixed, there is no possibility of a fixity of tenure. What has been sought to be done in this legislation is to accept as fair rent the existing rent, that is, the rent that is now being paid by the tenant to the landlord, which is the result of their mutual agreement and which has been accepted by both parties. So, if this is accepted, as fair rent, there may not be any serious contention that it is not acceptable to the parties. On the other hand, if we now attack this and say it is not fair rent, it will bring in all sorts of trouble and confusion. In granting this fixity of tenure, the principles accepted by this Bill are these: the tenants are made liable to pay regularly the *pattam* for which they are holding the property, and so long as they pay the *pattam*, they are not to be ejected by the landlord and the *pattam* should in no case be increased by the *jenmi*. The tenant should have the benefit of the extra yield now or hereafter. If, in any one year, the crops fail due to want of rain or draught and if the Government are pleased to remit the assessment in that year, the landlord also should grant the same remission. In case the land-tax is increased by the Government for any reason or at any time hereafter, the increase of rent that is to be paid has to be paid by the tenant. It is thus that a fair rent is fixed and a fixity of tenure is given to the tenant. As the Bill is a very short one and very clear, I don't think any further comment is necessary. I, therefore, commend this to the acceptance of the House and pray that the motion may be carried.

Mr. A. B. Salem *(Mattancheri):* There was already a notification dated 10th April 1942 regarding development of land, that no inch of land can be left uncultivated. One of the objects of this Bill is to get the best produce from the land. In view of that what would be the necessity for this Verumpattam Bill? An extraordinary notification has been issued that those who cannot cultivate the land may surrender such lands and Government will remit the tax. The Government will cultivate such lands. Village war committees have been appointed to find

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out lands lying fallow. And if people do not cultivate, they will be got cultivated by others. When there is such a system, what is advantage of this measure? The Bill does not make any provision in respect of these.

Mr. N. S. Radhakrishna Sarma *(Legal Remembrancer):* That is a later development for which provision will have to be made in the Bill in the Select Committee. This will be taken note of and adequate provision made in the Bill.

Mr. A. B. Salem *(Mattancheri):* Why not make those changes and then bring the Bill?

Mr. N. S. Radhakrishna Sarma *(Legal Remembrancer):* Only very slight amendments will be necessary which could very easily be effected at the Select Committee Stage or even at the consideration stage.

***Mr. P. Govinda Menon** *(Mulakunnathukavu):* Sir, I have great pleasure to support the motion made by the Diwan Peishkar. This Bill seeks to give fixity of tenure to *verumpattam* tenants, in that it attempts to do so it is a most commendable measure, and I do not think that anybody who has got the interests of the agriculturist population of the State in mind will think of disagreeing with this measure. But to say that does not mean that the Bill contains all that is desirable. It is a most straight-forward, simple measure which ignores the several difficulties which beset the problem of agrarian reform in the State. This bill presupposes that the mere granting of fixity of tenure will give relief to the agriculturists and will also give relief to the landlord classes also. Two years back this Government introduced another measure in this Council, and for some reason, that measure was subsequently dropped. I should think that that Bill contained several provisions far better for the welfare of the agriculturists than the present Bill. That Bill was called the Cultivating Verumpattamdars' Bill. The underlying principle of that Bill was that permanency of tenure should be given to the cultivating tenant and also while giving that permanency of tenure, the State should see to it that a fair rent alone is levied by the landlord from the tenant. When the present Bill was introduced, both those wholesome provisions of the previous Bill have been for some reason or other ignored. The Bill does not say that the benefits that are sought to be given to the tenant are to those tenants who actually cultivate the land. It is not a Cultivating Verumpattamdars' Bill. Secondly, the Bill seeks to declare that what is agreed by the parties at present is the fair rent. I disagree with both the departures made in this Bill from the previous Bill.

Let us take those things one by one. Now, if this Bill is passed, the result will be that any person who enters into the land belonging to another, be it today, yesterday or day before yesterday, he has got a fixity of tenure. It is not necessary that he should be the cultivating tenant. Compare his condition with that of several class of tenants, whose tenure is considered superior to that of the *verumpattamdar*. For example, take the *kanam* tenant. *Kanam* tenant has got fixity of tenure, only if his tenure is older than 8th Thulam 1090. Under the existing Tenancy Act, if a *kanam* was brought into existence before the 8th day of Thulam was, that is the day on which the first Tenancy Act came into existence, then he gets fixity of tenure. If the *kanam* came after that date, he does not get fixity of tenure. And this Bill does not seek to give fixity of tenure to such a tenant. Now, I put it to this House, why should such an anomaly exist? A *kanam* tenant is granted a period of 12 years when the *kanam* is granted. He pays the premium to the landlord to enable him to enjoy the land. After 12 years, the landlord can evict him. Under the existing law, his tenure is not considered to be far far superior in value to that of the *verumpattam* tenant. The anomaly comes in there because this Bill seeks at piecemeal legislation on a most complicated problem of the State. The tenancy laws of the State, if this Bill is passed into law, will be contained in three or four different enactments which may sometimes clash with each other. Certain provisions of the Tenancy Act will be contained in the Tenancy Act, certain provisions in the Transfer of Property Act, certain other provisions in the Verumpattam Tenants' Act. These piecemeal legislations according to me will do more harm than good to the tenant. Please don't take it that I am opposing this Bill. I am only contending for the position that this Government should attempt at a piece of legislation which will contain in itself in some simple enactment all the provisions which will govern the relationship between the landlord and the tenant in the State. Otherwise, there will be trouble; there will be anomalies; there will be complications. That alone is my contention. The anomaly that I referred just now, namely, the superior right which is given to the *verumpattam* tenant over that of a *kanam* tenant, comes in because, when the draftsman prepared this Bill, he had not before him the whole picture of the relationship between the landlord and the tenant before him. In the case of the previous Bill, the Cultivating Verumpattamdars' Bill, this anomaly did not exist, because in that case, the rights which were sought to be given by the Bill were restricted to a

*Speech not corrected by the hon'ble member.

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particular class of tenants and cultivators and that the provisions of that Bill justified themselves, because it was a Bill which sought to give relief—permanency and other allied relief to the real tiller of the soil. Unless the tiller of the soil is given some relief, the prosperity of the State may not grow. But that argument will not be available for this Bill.

Secondly, unless with fixity of tenure, there is provision for fair rent also, it will be in a way trapping into the meshes of the legislation either the tenant or the landlord. So far as the tenant is concerned there is a provision saying that he can at any time give up his tenure and surrender his property to the landlord. That is to say, if the annual rent fixed is according to the tenant very high and the property is not profitable, he can get out of all the meshes of the tract by surrendering the property.

Mr. T. P. Poulose *(Kanayannur)*: He is to forego the value ?

Mr. P. Govinda Menon *(Mulakunnathukavu)*: He is to forego the value. But that is only a technical objection. I may at once point out that the benefits of this Bill are confined to the tenants of lands or *nilams*, because in the case of *parambas*, even in the absence of legislation, there is practically permanency, on account of the value of improvements. The landlord may not care to pay the value of improvements. So that the objection raised by my friend Mr. Poulose exist only in the case of wet lands. The tenant can get out of the trouble by surrendering the property. Suppose there is a fair bargain made. The landlord may as well ask, why not pin on the tenant the property which has been taken. Why should he be allowed to surrender ? If permanency of tenure be given, why not he be asked to stick on to the property ? So that if a legislation is made, it must contain a provision for mutuality. What benefit is given to the tenant must be given to the landlord. What benefit is given to the landlord must similarly be given to the tenant. I am only pointing out an anomaly. These difficulties will be there if provision is made for fair rent. Now it is extremely doubtful whether the provisions of this Bill will be welcome to the tenant. To say that the present *pattam*, the present rent, shall be the fair rent for ever, will in many cases injure the tenant rather than the landlord. It would appear from the wording of the section that it is a provision intended to prohibt the landlord from enhancing the rent. But it has also a provision under which the present tenant is obliged if he wants to keep the property for himself to pay rent which in many cases may be a sort of rack rent. In fact the most important curse on the present day agriculturist is the curse of rack rent. As has been made clear to this House several times before, the poor agriculturist is constrained to take land from the landlord at a very high rent and he has to pay that rent. And after meeting the cultivation expenses, the interest on the capital invested, it is seldom that a tenant will be able to get any margin of profit in the large majority of cases. I do not refer to all cases. There are cases of lands demised by certain landlords, certain very big ancient landlords which are very profitable lands. But in the large majority of cases, where members of the middle class have let out property to the tenant, it is very seldom that the agriculturist makes any margin of profit.

Mr. M. K. Devassy *(Adur)*: Are you agreeable to the provision that the fair rent to be fixed should not be higher than the existing rent ?

Mr. P. Govinda Menon *(Mulakunnathukavu)*: We are on the question where there is rack renting in a majority of cases or whether the tenants will be losers. According to me there is rack-renting in a majority of cases. If fixity of tenure is given, it should be coupled with fair rent also and if fair rent should be fixed, why should it be extended to some alone ? This is a small point, because in the majority of cases the fair rent fixed will be less than the formula. Now the question may be asked, why should the tenants go in for the present rate of rent. Why should there be a tract which is beyond their capacity to pay ? That question has to be answered. That question can be easily answered if you understand the dearth of land which exists in our country. There is a large population in the State, agriculturits in several cases, unemployed and in several other cases landless. They have no work to do. They must have some lands to cultivate. They go in for land at whatever rate of rent the landholders choose. There is a scarcity of land and commensurate with the large agricultural population, the extent of the land is not sufficient. That is the reason why the tenants go in for land even at a very high rate. Now, in the previous Bill which was introduced in this House, a certain formula had been enunciated for fixing a fair rent. At that time, I had occasion to point out that that formula is a formula which might work hardship in certain cases and it may be fair in certain others. If this agrarian problem has to be satisfactorily solved, the only way to solve it is to institute a settlement under which just as the tax is fixed for every property, the rent also is fixed for every property. That is to say, a settlement should be instituted by the Government under which every land will be assessed in the books of the Government to land revenue as well as to rent which shall be a fair rent for the property. Sending out commissions from the

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courts, conducting agricultural operations for two or three consecutive years—none of these things will work out satisfactorily. You may point out to me that in the Malabar Tenancy Act, a certain formula has been introduced. You will also note that there has never been an occasion for that formula to work and to stand the test of reality, because in the Madras Act, which I understand was passed in 1930, a period of 12 years has been fixed, for which the existing rent will be the fair rent. And it is only after that period of 12 years, can the rent be revised. The occasion for that has not come. And before the occasion came, agitation was so great in Malabar that the Madras Government had to institute an inquiry into the conditions of agriculture in Malabar, and I think the committee has sent the report to the Government. But nothing further has come out of it. You may point out it is quite impracticable at present. If you want to solve the problem properly, and if you want to avoid trouble and if you want to see that hardship is not suffered either by the landlord or the tenant, the only logical way to solve the problem will be to have a solution under which each property will bear a fair rent and that will be borne out by the books of the Government. And then it will be very easy. Any landlord can let out the property only on that rent, whatever be the rent fixed in the contract of tenancy.

Another thing I have to point out is this. Under this Bill, every tenant will be able to get fixity of tenure whether he has entered the property today, yesterday or day before yesterday. I do think that it will work hardship in the case of several owners of property who by accident are called landlords. Several cases may occur. I may be an agriculturist. I may be cultivating several acres of property. Due to some accident, due to some reason or some inconvenience, I may enter into agreement with another person to let out the property for one year. It is the intention of neither the landlord nor the tenant that the property should remain as *verumpattam* property for ever. It is a makeshift arrangement for one year. Several such cases occur. It may be the intention of the landlord to take back the property and cultivate. In such cases, to grant fixity of tenure to the tenants especially when we see that *kanam* tenants who have got a period of 12 years are not given fixity of tenure, will be a very great hardship. I will point out that the tenancy legislation passed in several other districts and provinces in India have had this distinction in mind. The model of tenancy legislation, according to me, considering the several pieces of legislation in India, is the Estates Land Act passed by the Madras Government. It is a very old legislation and has stood the test of time. In the Madras Estates Land Act, every land is classified into two kinds of land. It will be either ryoti land or otherwise. Ryoti land is that land which from time immemorial, or for a certain period of time, had been with the ryots and they have been paying rent to the landlord. In such cases, the law gives fixity of tenure to the ryot. It will also remain ryoti land. Now, there are other kinds of lands with respect to which the landlord and the ryot can enter into contract. That is, land which is not from time immemorial or for a certain period of time being enjoyed by tenants as ryoti lands. Lands in our State also can, according to me, be classified into these two classes. Now, take for example, the case of lands which for the last 12 years or 20 years had been remaining with one tenant or another. For two years, it might have been with X for another two years it might have been with Y, and so on. The owner of the land never cultivated that land. He has been always and ever a rent receiver. Probably the personnel of the tenant might have been changed. In such cases, the legislature must intervene and declare what is the fact in reality to be a fact in law also. That is to say, where a holding or a property of tenure existed in favour of the tenant, there the legislature should intervene and declare that he has got the property. And in the case of *kanam* legislation which was first introduced in 1090, the then Maharaja declared by that regulation that *kanam* tenants whose holding is 30 years old on 8th Thulam 1090 shall have a permanency of tenure. In that case, I wish to point out the distinction clearly before the House. What the legislature did was only this. The *kanam* tenure was considered to be valuable by custom, by usage, by habit and by tradition. The *kanam* tenants had property and had permanency of tenure. Though in law it was possible for a landlord to evict a tenant, really they never did so. In such cases, fixity of tenure was granted to them. That is to say, the law stepped in and declared that the existing property was not given to the tenant by legislation, but legislation recognised the existence of the property in the name of the tenant. That is the Tenancy Legislation of 1090. Then the Tenancy Legislation of 1113, which is the accepted legislation, and which is an improvement of the accepted provisions of the previous legislation. I would therefore urge that the true and the correct way to approach the question will be to classify the lands into *verumpattam* lands or otherwise. If the owner of the property has not been cultivating the land for six years, he should not be allowed to evict the tenant, because the tenant has also got a tenure and he should be allowed to continue as tenant with a fixity of tenure. But in other cases, where by an accident one person

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should enter into partnership or agreement with respect to certain lands, I think it is improper to grant fixity of tenure in such cases. That is to say they are make-shift arrangements and there is nothing sacred or nothing important about the fact that the property has been cultivated by the tenant for one or two years. We are not here as I understand it, to make an extraordinary legislation. We are only here to see that industry and agriculture prosper. One agriculturist may for some reason or other enter into an agreement with another person. Now take some other instance. There is a Malabar *tavazhi*. It is an agricultural *tavazhi*. The *karanavan* is engaged in agriculture. The *anandaravan* is studying. Th *karanavan* dies suddenly. For that particular year, some one is asked to cultivate that property. Next year the *anandaravan* returns. As usual, he gets no employment. He thinks that he must take to agriculture. Why should permanency of tenure be given to the tenant? Because it was not the intention of either the *karanavan* or the *anandaravan* to give permanency of tenure to the tenant. So it is, as I said, as a particular make-shift arrangement made by the owner of the land for one year or two years, and it is a travesty of language to call such an owner of land a landlord. He must be called only an owner of the land. Technically for purposes of legislation, it will be a travesty of language to call him a landlord. He must be treated as owner of land who for a certain period has asked another person to enter into the land and to cultivate it. To say for all times or for ever he will not be allowed to take that property will be cutting at the very root of the principle. If that is your idea, then I have no quarrel. But so long as you want to maintain this idea, I submit it will be improper to declare that permanency of tenure has been given to such tenants. Now, the Bill itself recognises such difficulties. Government sometimes let out land for one year, and this Bill seeks to exempt such lands from the operation of the legislation. Why? Government let out a *puramboke* land for one year. Why should the Bill say that such tenants should not get permanency of tenure? Because it is not the intention of the Government or the person to get tenure thereon. The matter ends during that one year. Again in the case of houses in towns rented for residential purposes, why is permanency of tenure not given consistent with the logic underlying this? Cannot the tenant say that he should not be evicted so long as he is paying his rent properly? This is a Bill to give relief to *verumpattam* tenants, to simple tenants. Why are such houses exempted? I am not quarelling with the motion. I am only trying to demonstrate before this House that there are such cases. The other is only a contract for a certain number of years. You do not even want to create permanency in the case of *kanam*. *Kanam* is for a period of 12 years. After that period of 12 years, under the existing tenancy act, the landlord has got the right to evict. What is the sanctity, what is the importance, what is the distinctive feature of the *verumpattam* tenant, I ask? If this is an anomaly which has entered into this legislation by an oversight, I say that that anomaly should be rectified.

Then there is another defect in this Bill which also must be brought to the notice of this House. In the Madras Act and in the previous Bill which was introduced in this House, there was a provision that the landlord and the owner will be able to evict for purposes of his own cultivation. That is a matter which according to me should be introduced in this Bill also. If the owner of the land wants to cultivate the land himself, there is no reason why he should not be allowed to evict the tenant. The Bill is intended only to save the tenant from the defects of capricious eviction. When the owner of the land himself wants to cultivate it, he should be allowed to get back his property provided it is his property. Therefore, so long as you agree that it is his property, I have no quarrel. If by legislation it will cease to be his property, he must be allowed to evict him for his own purposes. As was done in the previous Bill and as is done in the Madras Legislation, introduce ample safeguards, ample provisions, to see that the provision is not abused. That is to say, if for 5 or 6 or 10 years after eviction, the owner does not till the land, see to it that there is a provision under which tenants will be able to get back the land. In some big *marumakkathayam* or joint families, there will be large acres of land and they would have let out the lands to tenants for purposes of cultivation. After partition takes places, the partitioned *thavazhis* may like to have some vocation and may naturally look back to their property after partition. Should they not be allowed to get back their property for cultivation? That is one vital defect which I notice in this Bill. These are some of the vital things. There are several other things as well which could be introduced in this Bill for the benefit of the tenants. For example, there is a hue and cry in our land among agriculturists—it is a vestage of feudalism; which the sooner it is eradicated the better. The provision for *Onakazhcha*, the provision for *Thiruvathira*, the provision for *kombuchakka*, and several other provisions; paddy has to be measured in a particular para, the *koodalapara*, the *ettu thappan* in certain places. Such things should be penalised and the standard measure should be the measure approved by the State and should be the measure for measuring *pattam*

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by the tenant to the landlord. All other personal services should be put a stop to. There are several other small things which need not be discussed at this stage of the discussion. One important point which I had adverted to is this kind of piece-meal legislation without any plan is useless. There will be all sorts of difficulties and anomalies when the matter comes to court. Malabar legislation is a comprehensive legislation which takes in the case of the *kanam* tenants and *verumpattam* tenants. Government must, if necessary, institute an enquiry in this matter to get the findings as to what the directions are in which the tenancy law should be revised—one comprehensive legislation which will take in all the law and the relationship of the landlord and the tenant. There should be one piece of legislation in the Statute Book referring to this. You should be able to know what are the rules governing the relationship between the landlord and the tenant. As I pointed out, it is scattered over three or four statute books. I can, if necessary, point out several provisions which even conflict with each other. Therefore, by all means introduce legislation which will give relief to the tenants to have a plan for it and let there be a planned revision of the Statute of the State regarding the law of landlord and tenant. Over and above these, there is a customary law in several places governing the relationship between landlord and tenant. There are several documents which say *aradiyandiram*. Put a stop to all these things. Let there be a revised plan. That is my contention before the House, while I support the mover.

Mr. M. K. Devassy *(Adur):* Sir, I rise to support this Bill. Let me first of all congratulate the Government on the reintroduction of a measure which for reasons of extra conservatism was shelved by the Government last time. My purpose in attempting to speak on this Bill is not so much to discuss the several provisions of the Bill minutely—it is the work of the Select Committee,—but to place before the House certain aspects which should guide the procedure of this House in handling a legislation of this nature. When I congratulated the Government, I did so in the fervent hope that this piece of legislation after it goes through the Select Committee will not meet with the same fate as its predecessor did. And I should think it will equally be the duty of this House in the interests of the tenants at large, even to suppress some of our radical views in this matter, so that a Bill which may enure to the benefit of the tenant even to the extent of 60 per cent may be snatched from the Government as early as possible. My Hon'ble Member Mr. Govinda Menon was inviting the attention of this House to some important points, mainly the question of fair rent, the disparity between the *kanam* tenure and the *verumpattam* tenure and the necessity for a comprehensive legislation. I do agree with my learned friend that a sort of comprehensive legislation is necessary to determine the relationship between the landlord and the tenant and it is always inconvenient that piece-meal legislation should be enacted. But I don't think that that aspect of the question should in any way stand in the way of the Government pushing up with this Bill as early as possible for the simple reason that as matters now stand *kanam* tenure is entirely different from *verumpattam* tenure. There is a law relating to *kanam* tenure, good or bad, existing, and relating to a particular class of tenancy. Here is another class of tenancy which is entirely different in its characteristics. I do admit that the law relating to *kanam* tenure will have to be improved in several respects.

For example, a *kanam* tenure which does not give permanency of tenure to the tenants of new *kanams* will be much less in value than a *verumpattam* tenure when this Bill comes into Act. The real step to improve upon our Tenancy Act so far as the *kanam* tenants are concerned is to take up the question of *kanam* tenancy after the passing of this Legislation. There are other grounds on which a *kanam* tenure will be less attractive, like the liability to pay renewal fee and the like. The real remedy will be after the passing of this legislation—and this legislation is one which really anticipates something with regard to the *kanam* tenure—to make both the tenures equally attractive, or if you want, more attractive, and not to embark upon a scheme of settlement and wait on for a long time until you receive a report of a committee which is likely to take more time than we all expect, a step generally followed by Governments which want to shelve the solution of this problem. Go on with the legislation relating to *verumpattam* tenure and then try to improve upon *kanam* tenure and make as many amendments as possible.

Now, another important aspect to which my hon'ble friend was referring was the question of fair rent. As a matter of fact when the last Bill was introduced I had occasion to explain many of the provisions of that Bill relating to the fixing of fair rent at several public meetings in which aggrarian interests are concerned. I put it to them after explaining the provisions of the bill whether if it is not possible for the House to carry amendments of the provisions relating to fair rent in their interests they would choose an opposition of that Bill or an acceptance of that Bill. They said that they wanted the Bill to be opposed because they were convinced that under the chapter relating to the fixing of fair rent which will always go against the interests of the

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majority of tenants who are not suffering from rack-renting now, but who will certainly have to pay higher rent under whatever scheme of fixing fair rent. I will now invite the attention of this House to another aspect of the question. It may be possible as my friend says that in a few cases rents which are now paid are high. I say there cannot be many such cases for the simple reason that so far as *nilams* are concerned if they are paying an abnormally high rent which the plot of land cannot produce then they would naturally have surrendered the land so far as *nilams* are concerned. So that from the standpoint of the tenants the rent that they pay at present on *nilams* must be deemed to be fair rent. Otherwise, they would have surrendered the land. Now we come to the question of *parambas*. In the case of *parambas* it may be difficult. As my friend pointed out even where the rent is higher than it ought to be it will not be possible for the tenant to surrender the holding because he has to give up the value of improvements. There is remedy for that as this fixity of tenure which is granted by this Bill gives him sufficient opportunities to improve that plot of land to increase its income without any liability to pay higher rent. I am saying that if a tenant is improving the land.. .....

Mr. A. V. Moothedan *(Chalakkudi)*: Is it the hon'ble member's position that the present *pattam* is fair ?

Mr. M. K. Devassy *(Adur)*: My position is this. Suppose there is a plot of land and it contains ten cocoanut trees today. Suppose the tenant plants 100 cocoanut trees more and when that plot contains 110 cocoanut trees he has only to pay that rent which he pays when the plot contained only 10 cocoanut trees.

Mr. P. Govinda Menon *(Mulakunnathukavu)*: Under the present law also it is so.

Mr. M. K. Devassy *(Adur)*: Under the present law he will be liable to be evicted.

Mr. P. Govinda Menon *(Mulakunnathukavu)*: He gets the value of improvements which the tenant always prefers.

Mr. M. K. Devassy *(Adur)*: The difference consists in this. When you are enacting a piece of legislation it must be an impartial piece of legislation and the tenant should be liable to pay enhanced rent when the income from that particular plot also increases.

Mr. P. Govinda Menon *(Mulakunnathukavu)*: Under the present law regarding *kanam* tenants there is provision for enhanced *pattam* or *michavaram* if improvements are made. But then out of the increased yield of the property the interest upon the value of improvements effected by the tenant has to be reduced and you will find that in 99 per cent of the cases it will be very difficult to enhance *michavaram*.

Mr. M. K. Devassy *(Adur)*: The very existence of that provision means that there is the possibility of enhanced rent. You may reduce the cost of improvements, you may reduce the interest, but still there is the possibility.

Mr. P. Govinda Menon *(Mulakunnathukavu)*: But it is a dead letter.

Mr. M. K. Devassy *(Adur)*: It is not a dead letter. My learned friend may be correct to a certain percentage. I am also correct to a certain percentage. My point, therefore, is, it is a very difficult problem. Whatever be the formulae which the Government may formulate it will be either extremely in favour of the tenants or extremely opposed to the landlords. The question is when you anticipate troubles and formulate formulae after formulas opposing one interest at one time and another interest at another time whether it will be possible for the Government or this House to have a finality of legislation in this matter. If it is in any way possible without hampering the interests of the tenants to a large extent I would think that the very best method to be followed will be to treat the existing rent as the fair rent. I am only suggesting this from a practical standpoint.

Mr. K. Kochukunhan Kaimal *(Vadakkancheri)*: Do you mean to say that the present rent in all cases will be uniform ?

Mr. M. K. Devassy *(Adur)*: I do not for a moment contend that the rent obtaining in all parts of the State is uniform. My contention was twofold. One, the very fact that the tenants are now holding the lands shows that the rent paid upon *nilams* ought to be presumed to be fair rent. With regard to *parambas* even if the present rent is a bit unfair there is the possibility before him if not paying additional rent to the landlord even after improvement of that plot. I do not even in spite of these reasons contend that there are absolutely no cases in Cochin where there is rack-renting. I am only suggesting practical solutions which will not be against the tenants in the State. We must see that the legislation is properly handled so that it may not see the grave that its predecessor saw.

My learned friend Mr. Govinda Menon was inviting the attention of this House.....

Mr. K. Kochukunhan Kaimal *(Vadakkancheri)*: Is it the hon'ble member's contention that the rent obtained in all the places in the State is uniform.

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Mr. M. K. Devassy *(Adur)* : I made it clear to the House that the rent is not uniform at all.

My friend Mr. Govinda Menon says that this bill should be applied to those tenants who have been in possession of lands for a long time. In other words, my friend means that it is only if the landlord has the intention of leasing out his land for a long time that this legislation should be applied. In the absence of such intention such a piece of legislation should not be forced upon them. I say we should create intention. If intention were to be the guiding feature in this I think this legislation would apply to no landlord.

Mr. P. Govinda Menon *(Mulakunnathukavu)* : What I meant was that in these cases where from the history of the land it would be clear that the landlords have been evicting lands from one tenant and giving them to another tenant and were always held by tenants it will be proper to presume that the landlord had the intention to treat those lands as always to be enjoyed by the tenants as distinguished from cases where a landlord himself cultivates. I wanted this House to make this distinction between these two classes of cases.

Mr. M. K. Devassy *(Adur)* : My point is only that if such a minute distinction were to be followed then there will not be many cases where this legislation would apply. It is immaterial whether such a legislation is passed or not.

Mr. P. Govinda Menon *(Mulakunnathukavu)* : I said as a matter of illustration 20, 12 or 10.

Mr. M. K. Devassy *(Adur)* : I would think that it would be a very dangerous distinction to be made in the course of this legislation. I am prepared to go along with my learned friend to one extent and that is, there must be some provision enabling the landlord to evict a tenant in desirable cases. I do not go to the extent of saying that a law should go beyond the purpose of preventing capricious eviction. But my standard of making the distinction will be entirely different. It is not what exists in the Malabar Tenancy Act. I would suggest that where the landlord possesses a minimum extent of land, which may be fixed by this House and whenever he wants he might have the right to evict. But if he possesses land above that minimum then that section should not apply. It is based on the simple principle that a man should be enabled to live upon his land so far as is necessary to meet his own requirements. Law should not stand in the way of my cultivating my own land for my own purposes which is absolutely necessary for my livelihood. Fix that minimum. Beyond that extent there is absolutely no necessity to make any provision for eviction. If the house thinks it reasonable it may be accepted. I suggest this as a *via media*. When I went through the Bill two clauses struck me as extreme cases, one where you prevent eviction for the purpose of the landlord. That is on the part of the landlords. The clause is where the whole benefit of the fixity of tenure is lost if the tenant does not pay the rent within one month of the due date. I would think it is a very hard clause. Even in the Malabar Tenancy Law if the tenant pays the rent after the institution of the suit even from the moment of that payment of rent he reverts back to his old position and gets fixity of tenure again. I would think that in the absence of some such provision this legislation may be taking away with the left hand what is given by the right hand. These are the only suggestions which I have to place before this House and I hope they will receive its serious consideration.

മിസ്റ്റർ സി. വി. ഇയ്യു: മിസ്റ്റർ പ്രസിഡണ്ടു് സർ, ബഹുമാനപ്പെട്ട മുളങ്കുന്നത്തുകാവു മെമ്പർ കൂടിയാന്മാക്കനുകൂലമായ ഈ ബില്ലിനെ അനുകൂലിച്ചുകൊണ്ടുള്ള മട്ടിൽ ഇവിടെ ചെയ്ത അതിഗംഭീരമായ പ്രസംഗം അതിന്റെ ഫലത്തിലെത്തിയപ്പോൾ അപൂർവ്വം ചില കായ്ങ്ങളിൽ കൂടിയാന്മാക്കു നന്മയുണ്ടെന്നല്ലാതെ മറവുള്ള കായ്ങ്ങളിൽ ദോഷമുണ്ടാകുന്നതരത്തിലാണു് വന്നുകലാശിച്ചതെന്നു പ്രസംഗത്തിന്റെ ഏകമാനസ്വഭാവംകൊണ്ടു് ഊഹിക്കേണ്ടിയിരിക്കുന്നു. അദ്ദേഹത്തിന്റെ വാഗ്ധോരണിയുടെ വൈചിത്ര്യം പഞ്ചസാരപുരട്ടിയ കയ്പുള്ള ഇളികപോലെ ആയിട്ടുണ്ടു് എന്നു അദ്ദേഹത്തോടുള്ള സകല ബഹുമാനങ്ങളും വെച്ചുകൊണ്ടു എനിക്കു് ഈ സഭയിൽ തുറന്നുപറയാതെ നിവൃത്തിയില്ല. കൃഷികന്മാരുടെ താല്പര്യങ്ങൾക്കും കൃഷിയുടെ നന്മക്കും പലപ്രകാരത്തിലും വിപരീതമായി പരിണമിക്കും അദ്ദേഹത്തിന്റെ ചിലഅഭിപ്രായങ്ങൾ നടപ്പിൽവന്നാൽ എന്നു് വളരെ സങ്കടത്തോടുകൂടി പറയാതെ നിവൃത്തിയില്ല. ക ക ക ൪-ൽ ഈ സഭയിൽ അവതരിപ്പിച്ചു ം, സെലക്ടുകമ്മറിയുടെ റിപ്പോർട്ടുകഴിഞ്ഞിട്ടു് അന്തർദ്ധാനം ചെയ്തതുമായ ആ വെവ്വാട്ടുകുടിയാൻ ബില്ലിൽ ക ക ക൪ കുംഭം ക-ാംതു മുതല്ലു റിട്രാസ്പക്ടീവു് ഇഫെക്ടു് കൊടുത്തിരുന്നു. അന്നത്തെ സെലക്ടുകമ്മറിയിൽ ബഹുമാനപ്പെട്ട മുളങ്കുന്നത്തുകാവു് മെമ്പറും ഞാനും ഉണ്ടായിരുന്നു. മുമ്പിലത്തെ ദിവാൻജിയായിരുന്ന സർ ങൺമുഖംചെട്ടിയവർകളും

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തിരുവിലാമലയിൽവെച്ച് ക ക ക ര മകരം 8ടവിൽ ചെയ്ത ഒരു പ്രസംഗത്തിൽ ഉടനെ തന്നെ വെറുമ്പാട്ടകുടിയാന്മാക്ക് സ്ഥിരാവകാശം കൊടുക്കുവാനുള്ള ഒരു ബിൽ ഗവമ്മെണ്ടു കൊണ്ടുവരുവാൻപോകുന്നുണ്ടെന്നു പ്രസ്താവിക്കുകയുണ്ടായി. അന്നുമുതൽ ഒഴിപ്പിക്കാൻ കൊടുത്തിട്ടുള്ള കേസ്സുകൾക്കു നിയമം ബാധകമാക്കാനാണ് ക ക ക ര കംഭം ക-ാംനു-മുതൽ വെറുമ്പാട്ടക്കുടിയാൻ ബില്ലിന്നു വിധിയിലേക്കു നിയമപ്രാബല്യം ആവശ്യമായിവന്നതു്. ആ സംഗതി ഇന്നത്തെ നിയമനിർമ്മാണത്തിൽ ഉൾപ്പെടുത്തി ക ക ക ര കുംഭം ക-ാംനു-വരെ പിന്നോക്കം നിയമപ്രാബല്യം കൊടുക്കേണ്ട കാര്യം ബഹുമാനപ്പെട്ട മുളങ്കുന്നത്തുകാവു് മെമ്പർ എടുത്തുകൊണ്ടാണ് മറന്നുപോയിട്ടുള്ളതെന്നു എനിക്കു ആദ്യമായി ചോദിപ്പാനുണ്ടു്.

വേറെ ഒരു സംഗതി ബഹുമാനപ്പെട്ട മുളങ്കുന്നത്തുകാവു് മെമ്പർ ഇവിടെ പറയുകയുണ്ടായി. "ഒരു കാരണവൻ കൃഷിചെയ്യുകയും അനന്തിരവൻ കോളേജിൽ പഠനത്തിനു പോകുകയും ചെയ്യുകയാണെങ്കിൽ, ആ അനന്തിരവൻ പഠിത്തംകഴിഞ്ഞുവരുന്നതിനുമുമ്പു് കാരണവൻ മരിച്ചുപോകുകയൊ, അല്ലെങ്കിൽ വേറെ ഒരാളെ കൃഷിനടത്തുവാൻ ഏല്പിക്കുകയൊ ചെയ്താൽ മല്യവത്തിയായ കോളേജ് സ്റ്റുഡന്റ് പഠിത്തം കഴിഞ്ഞുവരുമ്പോൾ ഭൂമി ഒഴിഞ്ഞുകിട്ടുകയില്ല. ഭൂമി കൃഷിക്കാരന്റെതാകും" പ്രഥമദൃഷ്ട്യാ കാര്യമാണിതെന്നു തോന്നും—പക്ഷെ കൃഷിചെയ്യാത്ത ഭൂമി ഉടമസ്ഥനു ഫിക്സിറ്റി ഉള്ള ജന്മിയും പുതുതായി ഫിക്സിറ്റി ലഭിച്ച കുടിയാനുംകൂടി മധ്യവത്തിയായ കോളേജ് വിദ്യാർത്ഥിയെ തിരോധനം ചെയ്യിക്കാതെ കഴിക്കുന്നതാണ് കുറെക്കൂടി ന്യായമായി നോക്കേണ്ടതു്.

മിസ്റ്റർ പി. ഗോവിന്ദമേനോൻ: ജന്മിക്കു എന്താണു് ഫിക്സിറ്റി?

മിസ്റ്റർ സി. വി. ഇയ്യു: ജന്മിക്കു ജന്മാവകാശംതന്നെ ഫിക്സിറ്റി (Fixity). കൃഷി ചെയ്യാത്ത വെറുമ്പാട്ടകുടിയാനും (Fixity) ഫിക്സിറ്റി കൊടുക്കണം. കൃഷിചെയ്യേണ്ട ആവശ്യത്തിനു വസ്തു ഒഴിപ്പിച്ചു കിട്ടുകയെന്നുള്ള തത്വം വെച്ചുനോക്കുമ്പോൾ വളരെനല്ല കാര്യമാണു്. ആ സംഗതിക്കു ഒരു മറുപടി പറയുവാനും വളരെ വിഷമമാണു്. നമ്മുടെ രാജ്യത്തു് ചിറവൂർ താലൂക്കൊഴിച്ചു ബാക്കിയുള്ള താലൂക്കുകളിൽ എനിക്കു് പരിചയമുള്ളിടത്തോളം കൃഷിക്കാരുടെ നില നോക്കുകയാണെങ്കിൽ 8 ഏക്കർ ഒന്നിച്ചു് പാട്ടത്തിനെടുക്കുന്ന കൃഷിക്കാരുടെ എണ്ണം വളരെ കുറവാണു്. മദിരാശിയിലെ ഭാവി നിയമനിർമ്മാണത്തിനു് നിയമിതമായ കൂട്ടികൃഷ്ണമേനോൻ കമ്മറിയുടെ മുമ്പാകെയിൽ സ്വന്തം കൃഷിക്കാവശ്യമായി 8 ഏക്കർ ഒഴിപ്പിക്കാമെന്നാണു് വെച്ചിട്ടുള്ളതു്—അങ്ങിനെ 8 ഏക്കർ ഒന്നിച്ചു പാട്ടത്തിനെടുക്കുന്നതായി ചിറവൂർ താലൂക്കിലെ കൃഷിക്കാർ മാത്രമേകാണുകയുള്ളു. മലബാർ ഡിസ്ട്രിക്ടിൽ പൊന്നാനിതാലൂക്കൊഴിച്ചു് 8 ഏക്കറിലധികം പാട്ടത്തിനെടുക്കുന്ന കൃഷിക്കാർ ധാരാളമുണ്ടാകാം—പൊന്നാനിയിൽ കാണുകയില്ല. കൊച്ചിരാജ്യത്തു മിക്കവാറും താലൂക്കുകളിൽ കൃഷിക്കാരെ സംബന്ധിച്ചിടത്തോളം ഒന്നും, ഒന്നരയും ഏക്കർ വീതം പാട്ടത്തിനെടുക്കുന്ന പൊന്നാനിതാലൂക്കിലെപ്പോലെയുള്ള ചെറിയ ചെറിയ കൃഷിക്കാർ മാത്രമെയുള്ളു. അതുകൊണ്ടു് ഈ കാര്യം സെലക്ട് കമ്മറി വളരെ കൂലങ്കഷമായി നിരൂപണം ചെയ്യണമെന്നാണു് എനിക്കു പറയുവാനുള്ളതു്. ബ. മുളങ്കുന്നത്തുകാവു് മെമ്പറുടെ കോളേജ് വിദ്യാർത്ഥിയുടെ കാര്യം സിലക്ട് കമ്മിറ്റി ആലോചനക്കെടുക്കുമ്പോൾ ഇപ്പോൾ നിലവിലുള്ള വെറുമ്പാട്ടങ്ങളിൽ ഉള്ള വസ്തുക്കളുടെ വിസ്തീർണ്ണംകൂടി ആലോചിക്കേണ്ടതാണു്. മുതലാളിമാക്കു കൃഷിചെയ്യുന്നതിനുവേണ്ടി ഒഴിച്ചിടാവുന്ന ഒരു വ്യവസ്ഥ ഈ ബില്ലിൽ ഇല്ലാത്ത സ്ഥിതിക്കു അങ്ങിനെയൊരു നൂതന വ്യവസ്ഥ ഇതിൽ കൊണ്ടുവരുന്നതു് വളരെ സൂക്ഷിച്ചുവേണ്ടതാണു്. മിക്കവാറും ആ കാര്യത്തിൽ ഞാൻ ഗവമ്മെണ്ടിനോടാണനുകൂലിക്കുന്നതു്. കുറെക്കൂടി പ്രായോഗികമായി കഷ്കനു് ആ വിധത്തിലാണു് നന്നചെയ്യാൻ കഴിയുന്നതു്.

മുദ്രപാട്ടം നിശ്ചയിക്കുന്ന കാര്യത്തിൽ, ഇപ്പോഴത്തെ പാട്ടം മുദ്രപാട്ടമായി കണക്കാക്കണമെന്നു പറയുന്നതു് പല കാരണങ്ങൾകൊണ്ടും നല്ലതാണു്. ഫെയർറെന്റിന്റെ (Fair rent) തോതുവെച്ചാലോചിച്ചാൽ വളരെയധികം പേഴ്സെന്റേജ് അക്രമപാട്ടം ഉണ്ടാകുമെന്നു ഞാനും സമ്മതിക്കും. മുദ്രപാട്ടത്തിനു ഒരു തോതു നിശ്ചയിച്ചു കൂട്ടുകയൊ കുറക്കുകയൊ ചെയ്യുന്നപക്ഷം അതു് ഭൂരിപക്ഷം കുടിയാന്മാക്കും ദോഷമായിട്ടു് പരിണമിക്കുമെന്നാണു് എന്റെ വിശ്വാസം. വടക്കൻപ്രദേശങ്ങളിൽ വിത്തിന്റെ അഞ്ചിരട്ടിയിൽ കൂടുതൽ പാട്ടം കൊടുക്കുന്ന പഴയ ജന്മികളുടെ കുടിയാന്മാർ കുറവായിരിക്കും. ഇപ്പോൾ മിക്കവാറും ജന്മിമാർ അവരുടെ സ്വത്തുക്കൾ ഭാഗിച്ചു ചെറിയ, ചെറിയ ജന്മി

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മാരായിത്തീന്നിട്ടുണ്ട്. അവരുടെ വക ഭൂമികളെല്ലാം ഭൂഗിച്ചു വളരെ ചെറുതായിതീന്ന കഴിഞ്ഞിട്ടുണ്ട്. അങ്ങിനെ വരുമ്പോൾ അവരുടെ പാട്ടക്കുടിയാന്മാരുടെ പാട്ടംകൂട്ടി കിട്ടുന്നതിനു സൌകര്യങ്ങൾ അന്വേഷിച്ചാണ് അവർ ഇരിക്കുക. പക്ഷെ അതു ഭൂരിപക്ഷം കുടിയാന്മാർക്കും ദോഷമായിട്ടുള്ളതാണു്.

The house rose for the day at 5 p.m.

K. S. RAGHAVAN

Secretary to the Council

LIBRARY ARCHIVES Kerala Legislative Assembly

APPENDIX I

(Please see answer to Question No. 264)

Serial No.	Name of article	Quantity	Rate Rs. A. P.	Amount Rs. A. P.
1	Rice bran ..	Paras 3,373 –0—4	0— 0—6	105— 6— 5
2	Cholam bran ..	,, 3,899—4—0	0— 3—8	893— 9— 9
3	Cotton seeds ..	lbs. 42,436—0—0	0— 0—6	1,326— 1— 8
4	Cocoanut cake ..	,, 28,762—0—0	0— 0—7	1,048— 9— 8
5	Groundnut cake ..	,, 26,088—0—0	0— 0—5	679— 6— 0
6	Salt ..	Paras 107—3—0	0—11—0	73—12— 0
7	Straw ..	lbs. 1,43,726—0—0	10— 8—0 (per 2,500 lbs.)	603—10— 3
8	Purchase of straw for animals stationed in the exhibition grounds ..	..	..	0— 5—10
9	Paddy ..	Paras 60—0—0	0—10—0	37— 8— 0
10	Cocoanuts ..	No. 383—0—0	2— 8—0 per 100	8— 7— 2
11	Cost and cutting charges of guinea grass and napier grass and converting it into hay and silage ..	..	..	220— 3— 8
			Total ..	4,997— 0— 5